

SAN DIEGO COMMUNITY COLLEGE DISTRICT AUXILIARY A Perennial Topic for Citizen Complaints

SYNOPSIS

This study of the San Diego Community College District (SDCCD) developed from a number of citizen complaints which contained allegations of inappropriate actions by the SDCCD. These actions dealt with the handling of various types of harassment and discrimination claims involving college faculty, administrators and students. The complaints included allegations of improper use of monies from SDCCD Auxiliary Organization (Auxiliary) trust fund accounts in disposition of these claims. A full audit of the Auxiliary accounts was accomplished by the San Diego County Auditor and the report of that audit is appended. None of the allegations in these complaints was found to be true. The Jury recommends that the Auxiliary accounts be audited annually and reported separately from SDCCD's general accounts.

ISSUES

Since its inception the Auxiliary has been the focus point of various, but seemingly recurrent, citizen complaints. With past complaints, as was the case with current complaints, the Auxiliary appeared vulnerable to such accusations due to the Auxiliary's operating within various levels of privacy and confidentiality. Some of these privacies were appropriate and in keeping with the proper functioning of the Auxiliary. Some were not, due to the nature of Auxiliary concerns. At issue in the complaints investigated by the 2001-2002 Grand Jury were allegations that harassment and discrimination claims against the SDCCD were being settled by using monies inappropriately from SDCCD Auxiliary trust accounts.

BACKGROUND

The SDCCD is a composite of three community colleges (San Diego City College, Mesa College, and Miramar College), an adult continuation school and an educational cultural complex. The SDCCD Auxiliary was formed under the Non-profit Public Benefit Corporation Law to provide support services for the general benefit of the colleges and organizations which it serves. In addition to

its own Articles of Incorporation, Bylaws, Regulations and Master Agreement with SDCCD, the Auxiliary is also governed by the California Education Code and the California Code of Regulations for community college districts. This study by the 2001-2002 Grand Jury is but one in a series of final reports based upon similar complaints dating back at least as far as the 1986-1987 Grand Jury.

PROCEDURES EMPLOYED

Upon initial investigation of the complaints, the Grand Jury quickly determined that

- (i) Similar complaints have been lodged with past Grand Juries regularly since the inception of the Auxiliary;
- (ii) Although there were variations among the complaints from year to year, common to most, if not all, were allegations of inappropriate and concealed actions by the Auxiliary in handling the claims; and
- (iii) The fundamental denominator of the complaints was the inappropriate use of Auxiliary Trust monies to settle the claims.

The Grand Jury investigation therefore focused on the purposes and functions of the Auxiliary as prescribed by the California Education Code, the IRS, and various operating documents of SDCCD and the Auxiliary itself. The Grand Jury further interviewed various faculty, staff, and administrators involved with the SDCCD and the specific matters set forth in the complaints.

Finally, as the basis of the complaints rested upon misuse of Auxiliary trust monies, the Grand Jury requested the Audits Division of the County of San Diego to conduct an audit of the San Diego Community College District Auxiliary Organization.¹

FACTS

- A. Since 1996, three Grand Juries have investigated SDCCD on allegations of misuse of monies to pay various claims brought against SDCCD.²

¹San Diego Community College Auxiliary Organization Audit, February 7, 2002.

²San Diego County Grand Jury Reports dated 1986, 1987, and 1996.

- B. SDCCD Auxiliary was established, operates and is governed by the California Education Code, California Code of Regulations, IRS/US Treasury Code, plus its own Articles of Incorporation, Bylaws, and Master Agreement with SDCCD.³
- C. Various claims of harassment and discrimination by and against the SDCCD have been made by students, faculty and administrators.⁴
- D. The SDCCD and the Auxiliary have established rules, procedures and remedies to handle such claims.⁵

FINDINGS

- I. The Grand Jury, during the process of its investigation, found there were more than co-incidental similarities between citizen complaints lodged currently and those lodged with past Grand Juries. The Grand Jury further found that complainants to the current Jury were essentially the same, and the complainants were largely ignorant of past facts, findings and recommendations made on the same or closely similar claims.
- II. As with current complaints, the Grand Jury found that past complaints lodged against SDCCD and its Auxiliary claiming misuse of monies in settling harassment and discrimination claims were without merit.
- III. The Grand Jury found that the administration, faculty and staff involved with both SDCCD and the Auxiliary dealt with and handled claims of harassment and discrimination as prescribed by law, rules, regulations and school policies, and in a manner which was uniformly fair handed.
- IV. Allegations that Auxiliary monies have been used to pay or otherwise settle such claims cannot be substantiated.⁶

³See *California Education Code*, Articles of Incorporation of SDCCD, Bylaws of SDCCD, and Memorandum of Understanding between SDCCD and the Auxiliary Organization.

⁴Grand Jury interviews.

⁵See *California Education Code*, Articles of Incorporation of SDCCD, Bylaws of SDCCD, and Memorandum of Understanding between SDCCD and the Auxiliary Organization.

⁶*San Diego County Audit of the San Diego Community College Auxiliary Organization*, February 7, 2002.

Following months of interviews with SDCCD administration, staff and faculty, reviewing numerous operating documents and guidelines, and studying various past Grand Jury reports on similar topics, the 2001-2002 Grand Jury concluded that most, if not all, of the complaints filed against the SDCCD and its Auxiliary evolved from disgruntled or misguided persons who have developed agendas adverse or contradictory to the properly sanctioned programs, policies and procedures of the SDCCD and its Auxiliary.

The 2001-2002 Grand Jury further concludes that the Grand Jury process has continued to be subverted to claimants' private agendas in an attempt to manipulate the process. The Grand Jury believes that subsequent Grand Juries should cautiously screen further like claims against the SDCCD Auxiliary as a safeguard to misuse of the process.

By definition, to serve its intended purposes efficiently and correctly, the Auxiliary should and does function within proper guidelines of discretion and confidentiality. However, being associated with and serving the interests of a public institution, full and appropriate public disclosure of its affairs should be carefully observed. As observed in the Grand Jury investigation and as also confirmed by the County Auditor's Report, Auxiliary monies are required to be audited and accounted for separate and distinct from those of SDCCD.

In past audits, even though separate accountings were and are maintained/ conducted, final accountings were combined with those of the SDCCD general accounts. Although the efficiencies of such are understandable, regulations (including those of both the SDCCD and the Auxiliary) call for separate, stand-alone accountings and audits.

As this report attests, had Auxiliary accountings been made available separate from the District's general accounting reports, the basis of the complaints over the past decade concerning inappropriate use of Auxiliary monies would have been nonexistent.

RECOMMENDATION

That the San Diego Community College District:

02-01: *Account for, audit annually, and report its Auxiliary trust fund monies separately from SDCCD general accounts.*

REQUIREMENTS AND INSTRUCTIONS

The California Penal Code §933(c) requires any public agency which the Grand Jury has reviewed, and about which it has issued a final report, to comment to the Presiding Judge of the Superior Court on the findings and recommendations pertaining to matters under the control of the agency. *Such comment shall be no later than 90 days after the Grand Jury submits its report to the public agency.* Also, every ELECTED county officer or agency head for which the Grand Jury has responsibility shall comment on the findings and recommendations pertaining to matters under the control of that county officer or agency head, as well as any agency or agencies which that officer or agency head supervises or controls. *Such comment shall be made within 60 days to the Presiding Judge of the Superior Court with an information copy sent to the Board of Supervisors.*

Furthermore, California Penal Code §933.05(a), (b), (c), details, as follows, the manner in which such comment(s) are to be made:

- (a) As to each grand jury finding, the responding person or entity shall indicate one of the following:
 - (1) The respondent agrees with the finding
 - (2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.
- (b) As to each grand jury recommendation, the responding person or entity shall report one of the following actions:
 - (1) The recommendation has been implemented, with a summary regarding the implemented action.
 - (2) The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.
 - (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a time frame for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This time frame shall not exceed six months from the date of publication of the grand jury report.
 - (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.
- (c) If a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department

headed by an elected officer, both the agency or department head and the Board of Supervisors shall respond if requested by the grand jury, but the response of the Board of Supervisors shall address only those budgetary or personnel matters over which it has some decision making authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.

Comments to the Presiding Judge of the Superior Court in compliance with the Penal Code §933.05 is required from the:

San Diego Community College District

Recommendation: 02-01